

## SECTION 4 EMPLOYEE LEAVES

### Table of Contents

Click on any section in the table of contents to go directly to that part of the policy.

<b>Employee Leave .....</b>	<b>3</b>
<b>Leave Benefits .....</b>	<b>3</b>
<b>Compensatory Time .....</b>	<b>3</b>
<b>Holidays .....</b>	<b>5</b>
<i>Optional Holidays .....</i>	<i>5</i>
<i>Skeleton Crew/State Holidays .....</i>	<i>5</i>
<i>Job Abandonment .....</i>	<i>6</i>
<b>Administrative Leave for Outstanding Performance.....</b>	<b>6</b>
<b>Assistance Dog Training.....</b>	<b>6</b>
<b>Certified American Red Cross Leave .....</b>	<b>6</b>
<b>Court Appointed Special Advocate Leave .....</b>	<b>6</b>
<b>Volunteer Firefighter Leave .....</b>	<b>7</b>
<b>Decree Leave .....</b>	<b>7</b>
<b>Emergency Leave for a Death in the Family .....</b>	<b>7</b>
<b>Emergency Leave Other (EO) .....</b>	<b>8</b>
<b>Family and Medical Leave Act (FMLA).....</b>	<b>8</b>
<i>Eligibility for FMLA Leave .....</i>	<i>9</i>
<i>Conditions When Using FMLA .....</i>	<i>10</i>
<i>Employee Notice and Certification .....</i>	<i>10</i>
<i>Insurance Benefits During FMLA.....</i>	<i>10</i>
<i>Job Restoration .....</i>	<i>11</i>
<i>Failure to Return to Work after FMLA .....</i>	<i>11</i>
<b>Foster Parent Leave .....</b>	<b>12</b>
<b>Jury Duty Leave.....</b>	<b>12</b>
<b>Leave without Pay .....</b>	<b>12</b>
<i>Conditions Related to LWOP .....</i>	<i>13</i>
<b>Military Leave.....</b>	<b>14</b>
<b>Notice of Availability of Paid Leave for Military Service .....</b>	<b>15</b>
<b>Parental Leave .....</b>	<b>15</b>
<b>Sick Leave.....</b>	<b>15</b>
<i>Accruals .....</i>	<i>15</i>
<i>Excessive Use of Sick Leave.....</i>	<i>16</i>
<i>Donating Sick Leave to Co-Worker .....</i>	<i>16</i>
<i>Request and Approval .....</i>	<i>16</i>
<i>Educational Activities .....</i>	<i>16</i>
<i>Restoring Sick Leave.....</i>	<i>17</i>
<i>Return-to-Work .....</i>	<i>17</i>
<i>Transfers .....</i>	<i>17</i>
<b>Sick Leave Pool .....</b>	<b>17</b>
<i>Contributions to the Sick Leave Pool.....</i>	<i>18</i>
<i>Withdrawal From the Sick Leave Pool .....</i>	<i>18</i>
<b>Time Off To Vote.....</b>	<b>18</b>
<b>Vacation .....</b>	<b>18</b>
<i>Accruals .....</i>	<i>19</i>

## SECTION 4

### EMPLOYEE LEAVES

<i>Fiscal Year Carryover .....</i>	19
<i>Payment of Vacation Leave.....</i>	19
<i>Running Vacation Leave Out .....</i>	19
<i>Transferring Vacation Leave .....</i>	19
<b>Payment of Accrued Leave to the Estate of a Deceased .....</b>	<b>20</b>
<b>Sick and Vacation Leave for Retired State Employees.....</b>	<b>20</b>

## SECTION 4

### EMPLOYEE LEAVES

<b>Employee Leave</b>	Texas Government Code, Chapters 661 and 662 specify the types and amounts of leave a state employee is eligible for and under what conditions the leave can be used. The ERS Human Resources staff administers the work leaves available to employees.	
<b>Leave Benefits</b>	<p>ERS is required to keep a record of time and attendance: vacation and sick leave accruals and absences of each employee and the reasons for employee absences, regardless of the type of leave used.</p> <p>ERS processes leave by exception through an automated leave accounting system. Each employee is required to enter into the system the number of hours taken as leave and extra hours or holiday time worked. For timekeeping purposes, all leave is to be rounded off to 15-minute increments. Leave of less than ten minutes should not be requested. Chronic tardiness, even if less than ten minutes however, will be dealt with as a disciplinary issue.</p>	
	<b>Approval</b>	<p>All leave, except leave for medically related reasons, emergency, military, jury duty and court appearance leaves, is to be requested and approved in advance prior to the absence. Supervisors do not have to grant each request for leave, but may work with the employee to reach an agreement on use of leave that meets both the needs of the agency and the employee.</p> <p>When advance approval is not possible, the employee must talk to the supervisor or director as soon as possible regarding the dates and reasons for the absence. When an unexpected need for leave occurs, the employee must contact their supervisor as soon as possible using the method of communication requested by the supervisor. An employee taking any such leave without advance approval may be subject to disciplinary action or termination of employment.</p> <p style="text-align: right;">Revised 9/1/2015</p>
<b>Compensatory Time</b>	<p>All compensatory time worked must be approved in advance by the supervisor and must be entered as "extra hours" in the leave accounting system. Adjusting normal workweek schedules in order to obtain compensatory time for the employee's personal convenience will not be permitted. There are three types of compensatory time:</p> <ul style="list-style-type: none"> <li>• State compensatory time -- hour for hour;</li> <li>• Holiday compensatory time – hour for hour; and</li> <li>• FLSA compensatory (overtime) -- time and one-half.</li> </ul> <p>A FLSA non-exempt employee is eligible to earn all types of compensatory time while an FLSA exempt employee may earn only state and holiday compensatory time.</p>	
	<b>Adjusted Hours</b>	<p>An employee may use adjusted hours when he works extra hours at the beginning of the workweek and wants to take time off at the end of the same workweek. To request adjusted hours, the employee should submit a leave request in the same manner they would for any other leave type and use a leave code of "AH". There must be an EH record entered to use AH in the same workweek.</p>

## SECTION 4

### EMPLOYEE LEAVES

	<b><i>Holiday Compensatory Time</i></b>	An employee who must work on a national or state holiday will be allowed holiday compensatory time off during the 12-month period following the end of the month in which the holiday was worked.
	<b><i>Payment of FLSA Compensatory Time</i></b>	<p>An employee will be paid for FLSA compensatory time under the following conditions.</p> <ul style="list-style-type: none"> <li>• At the discretion of the Executive Director or designee;</li> <li>• Upon accumulation of 240 hours, the employee will be paid for those hours which exceed 240;</li> <li>• When the employee's FLSA status changes from non-exempt to exempt, which can result from a promotion, reclassification or a job audit; and</li> <li>• Upon the employee's separation, including an interagency transfer, from ERS, or the employee's death.</li> </ul> <p>Payments are paid at the employee's regular rate of pay.</p> <p>Revised 9/1/2012</p>
	<b><i>Training Time</i></b>	Attendance at a required training or meeting is considered hours worked and will be counted toward the computation of compensatory hours earned. Training activities will not be counted as work time when attendance is outside the employee's regular work hours and voluntary; and/or the training is not directly related to the employee's job.
	<b><i>Travel Time</i></b>	<p>Compensatory time may be earned when an employee is traveling in the following instances:</p> <ul style="list-style-type: none"> <li>• An employee is traveling to or from official business outside designated headquarters during non-working hours on workdays or at any time on weekends or weekday holidays. Only that time actually spent traveling to and from the required destination and for time spent conducting business related to the function is counted as hours worked.</li> <li>• If an employee chooses to travel in a motor vehicle, the amount of compensatory time earned may not exceed the amount of time the employee would have earned by traveling on a commercial airline. An employee traveling on a commercial airline during non-working hours will be compensated from one hour prior to the <u>scheduled</u> departure time to the actual arrival time at the airport of the employee's destination. Additional flying and airport wait time due to flight delays do not count as travel time in the calculation for compensatory time.</li> </ul> <p>Revised: 3/1/2010</p>

## SECTION 4

### EMPLOYEE LEAVES

	<b><i>Use of FLSA Compensatory Leave (Overtime)</i></b>	ERS requires an employee to use FLSA compensatory time before annual leave. The request for use of such time will be approved provided that the requested time off does not unduly disrupt the normal work operations.  Revised 9/1/2012
	<b><i>Use of State Compensatory Time before Lapsing</i></b>	ERS will reasonably accommodate an employee's use of accrued compensatory time. If an employee submits a written request to use accrued compensatory time, the supervisor will approve in writing the employee's request or provide the employee with an alternative date to use the compensatory time. State compensatory time must be used within the 12-month period following the end of the workweek in which it was accrued.
	<b><i>Workweek</i></b>	The standard workweek is Saturday through Friday. This is the period that the leave accounting system will use to determine whether an employee earned compensatory time or overtime.
<b><u>Holidays</u></b>	<p>There are three types of holidays established by Section 662.003 of the Texas Government Code: national, state and optional. An employee must be at work or on paid leave the day immediately preceding and the day immediately following a national or state holiday in order to get "holiday off" time. Employees who work on national or state holidays will earn hour for hour holiday compensatory time which must be used within the 12 months following the end of the date in which it was earned. (Offices will not be closed on another day when designated holidays fall on a Saturday or Sunday.)</p> <p>An employee who normally works 40 hours per week on a schedule other than Monday through Friday, 8 a.m. to 5 p.m., is entitled to paid holiday time off that is equivalent to the holiday time received by employees who work normal schedules. The holiday pay for a part-time employee is determined on a basis proportionate to their hours worked.</p> <p>Revised 2/13/2008</p>	
	<b><i>Optional Holidays</i></b>	A state employee is entitled to observe Rosh Hashanah, Yom Kippur, Good Friday, and Cesar Chavez Day in lieu of any state holiday where a skeleton crew is required. If an employee elects to take one of the optional holidays, the employee must specify in the comment box of the leave request which state holiday is being substituted. This is the only time that an employee is allowed to carry a negative (holiday) balance.
	<b><i>Skeleton Crew/State Holidays</i></b>	Skeleton crew days are holidays that require State agencies to have on hand only enough personnel (skeleton crew) to carry on required work activities. A skeleton crew includes only the employees necessary to handle the basic functions of each division (not for the employee's personal convenience), respond to callers and visitors, and a minimum of one supervisor in each division. Employees may volunteer to work or Division Directors may designate employees to work.

## SECTION 4

### EMPLOYEE LEAVES

<p style="text-align: center;"><b>Job Abandonment</b></p>	<p>Job abandonment is defined as an employee's absence from duty for one full workday without authorization. An employee may be considered to have abandoned their job if the employee:</p> <ul style="list-style-type: none"> <li>• fails to report to work;</li> <li>• fails to remain at work for a scheduled workday, and/or</li> <li>• fails to return to work upon expiration of approved leave.</li> </ul> <p>Unless the employee produces a satisfactory explanation for the unauthorized absence, disciplinary action, up to and including termination, can be considered. In the case of termination, the Human Resources staff will forward, by certified mail, to the employee's last known address, a formal notification that a dismissal action has been processed.</p>
<p style="text-align: center;"><b>Administrative Leave for Outstanding Performance</b></p>	<p>Administrative leave with pay may be granted to an employee as a reward for outstanding performance. The administrative leave granted at the discretion of the Executive Director or designee may not exceed 32 hours each fiscal year.</p> <p>The supervisor must submit an Award of Administrative Leave for Outstanding Performance form to the division director through the appropriate channels, requesting administrative leave with pay for an employee. The form should adequately describe how the employee's outstanding performance merits the administrative leave. The form must be signed and dated by the appropriate director. If the division director approves the request, the signed form should be forwarded to the Human Resources Office for placement in the employee's personnel file. Additionally, the Human Resources staff will credit the employee's leave account with the number of administrative leave hours awarded. The leave does not carry forward, it must be exhausted in the fiscal year in which it was granted.</p> <p style="text-align: left;">Revised 10/31/06</p>
<p style="text-align: center;"><b>Assistance Dog Training</b></p>	<p>An employee with a disability as defined by the Human Resources Code, Section 661 is entitled to a paid leave of absence for the purpose of attending a training program to acquaint the employee with an assistance dog. This leave may not exceed ten working days a fiscal year.</p>
<p style="text-align: center;"><b>Certified American Red Cross Leave</b></p>	<p>An employee who is a certified disaster service volunteer of the American Red Cross, or who is in training to become such a volunteer, may be granted a leave of absence not to exceed ten days each year to participate in specialized disaster relief services. The employee must have supervisory authorization in addition to a request from the American Red Cross and the approval of the Governor's Office.</p>
<p style="text-align: center;"><b>Court Appointed Special Advocate Leave</b></p>	<p>An employee may be granted leave not to exceed five hours each month to participate in mandatory training or perform volunteer services for Court Appointed Special Advocates without a deduction in salary or loss of vacation time, sick leave, earned overtime credit or state compensatory time.</p> <p>On return to duty, the employee must enter a leave request into the Leave Accounting System.</p> <p style="text-align: left;">Added 9/1/2009</p>

## SECTION 4

### EMPLOYEE LEAVES

<b>Volunteer Firefighter Leave</b>	Volunteer firefighters may take a paid leave of absence not to exceed five working days each fiscal year for attending training schools conducted by state agencies. A letter of authorization from the agency conducting the training must be submitted with the leave request. This leave of absence may also be granted to volunteer firefighters for the purpose of responding to emergency fire situations.
<b>Decree Leave</b>	Decree leave is any special occasion leave that is authorized by the Governor or Legislature. In most instances, a skeleton crew must be maintained to conduct public business. Employees remaining on duty will earn holiday compensatory time.
<b>Emergency Leave for a Death in the Family</b>	<p>Emergency leave is usually granted for a death in the employee's family. An employee's family related by kinship, adoption or marriage may include, but is not limited to, the employee's spouse, the employee's and the spouse's parent, children, brothers, sisters, grandparents, great-grandparents and grandchildren. The leave will not normally exceed three working days in any one continuous absence. However, if circumstances necessitate extra leave time, the employee may request additional time.</p> <p>To request emergency leave, an employee must notify their immediate supervisor and enter the requested time into the leave accounting system and use the "reason" field to communicate the specific details for the request. The automated leave request is routed to the supervisor and division director for approval. The division director's decision is final and not subject to administrative review.</p> <p><small>Revised 3/1/2012</small></p>

## SECTION 4

### EMPLOYEE LEAVES

<p style="text-align: center;"><b>Emergency Leave Other (EO)</b></p>	<p>The Executive Director may grant emergency leave for other reasons determined to be for good cause (in-house investigation, house fire, flood, tornado, etc.). The Executive Director or Deputy Executive Director may also grant leave for:</p> <ul style="list-style-type: none"> <li>• Special circumstances on an individual or agency-wide basis; and</li> <li>• Inclement Weather.</li> </ul> <p>An employee may be granted "emergency leave other" (EO) for special work-related situations or unique circumstances not covered by vacation leave, sick leave, and/or other approved leave provisions. In these instances, time off will be given without deduction from accrued balances.</p> <p>Requests for "emergency leave other" that are not on an agency-wide basis will be initiated in writing by the employee and forwarded to the Deputy Executive Director through the division director and Human Resources Director for review and final action. The request will clearly explain the circumstances of the situation and indicate why the employee believes that other leave is not appropriate. If the request is approved, the Human Resources staff will post the time to the employee's balance record on the leave accounting system.</p> <p><u>Inclement Weather Leave:</u> When hazardous conditions for travel exist, the Executive Director may declare official inclement weather leave with no deductions from leave balances.</p> <p>If an employee makes a personal decision that travel is hazardous enough to prohibit reporting to duty safely, the supervisor/director must be notified immediately. If the Executive Director does not extend emergency leave privileges the employee must enter a leave request for the time taken. If leave is not available, the employee will be placed on Leave Without Pay.</p> <p>Revised: 4/1/2008</p>
<p style="text-align: center;"><b>Family and Medical Leave Act (FMLA)</b></p>	<p><u>The Family and Medical Leave Act (FMLA)</u> entitles an eligible employee to take up to 12 weeks of job-protected leave in a 12 month period for a specified family and medical reason or a qualifying urgent military service event. It also entitles an eligible employee a total up to 26 weeks of job protected leave to care for an injured family service member. The ERS will determine if an employee's absence qualifies for FMLA leave. An employee does not have the option of choosing whether or not to designate leave as FMLA leave for a qualifying event.</p> <p>ERS will not interfere with, restrain, or deny the exercise of any right provided you by FMLA. ERS will not discharge or discriminate against you for opposing any practice, or because of involvement in any proceeding related to FMLA.</p> <p>Under the Family and Medical Leave Act you have rights and responsibilities as outlined by the U.S. Department of Labor.</p> <p>Revised: 3/30/2012</p>



## SECTION 4

### EMPLOYEE LEAVES

	<p><b><i>Eligibility for FMLA Leave</i></b></p>	<p>To be eligible for FMLA benefits, an employee must have been employed by the state for at least 12 months (the months need not be consecutive) and worked at least 1,250 hours during the 12 months immediately preceding the start of FMLA.</p> <p><u>Family Medical Leave</u> An eligible employee will be granted up to a total of 12 work weeks (480 hours for a full-time employee) of leave during any 12-month period, measured forward from the first day of FMLA, for one or more of the following reasons:</p> <ul style="list-style-type: none"> <li>• The birth of a child and to care for the newborn child;</li> <li>• The placement with the employee of a child for adoption or foster care;</li> <li>• The care of the employee's spouse, child or parent, with a serious health condition;</li> <li>• Medical leave when the employee is unable to work because of a serious health condition; or</li> <li>• Qualifying urgent event arising from a spouse, parent, son, or daughter who is a member of any branch of the military (including the National Guard or Reserve) and who was deployed or called to active duty in a foreign country.</li> </ul> <p><u>Servicemember Family Leave</u> An eligible employee who is the spouse, son, daughter, parent or next of kin of a covered servicemember will be granted up to a total of 26 work weeks of leave in a 12-month period, measured forward from the first day of FMLA, who acts as a caregiver for a family member wounded while in service.</p> <p>Note: Under the FMLA, spouses who both work for ERS will together be eligible for a total of 12 weeks of FMLA in connection with the birth, adoption or placement of a foster child or to care for the employee's parents (not a parent-in-law) with a serious health condition.</p> <p><u>Revised: 1/5/2012</u></p>
--	---	--

## SECTION 4

### EMPLOYEE LEAVES

	<p style="text-align: center;"><b><i>Conditions When Using FMLA</i></b></p>	<p>The following conditions apply to the use of FMLA:</p> <ol style="list-style-type: none"> <li>1. All applicable paid vacation and sick leave must be exhausted while taking FMLA. (Sick leave can only be utilized in those situations clearly falling within the definition of sick leave.)</li> <li>2. Holidays occurring while an employee is on FMLA in one continuous block are counted toward the maximum total of 12 workweeks of leave.</li> <li>3. An ERS employee, who is the father of a child, may use sick leave in conjunction with the child's birth only if the child is actually ill or to care for his spouse while she is recovering from labor and delivery.</li> <li>4. Sick leave may be used in conjunction with FMLA when a child under the age of three is adopted regardless of whether the child is actually ill at the time of adoption.</li> <li>5. Family leave for birth or adoption, including foster care placement, must conclude within 12 months of the birth or placement.</li> <li>6. Under some circumstances, an employee may take FMLA intermittently -- which means taking leave in blocks of time, or by reducing a normal weekly or daily work schedule.</li> <li>7. When the leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so that it will not unduly disrupt the ERS' operation.</li> </ol>
	<p style="text-align: center;"><b><i>Employee Notice and Certification</i></b></p>	<p>An employee seeking to use FMLA is required to provide:</p> <ul style="list-style-type: none"> <li>• 30-day advance notice of the need to take FMLA when the need is foreseeable; and</li> <li>• Medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member.</li> </ul> <p>In the case of foreseeable leave, an employee must provide timely certification within 15 calendar days after being requested to furnish such certification. An employee may be denied leave until the required certification is provided.</p> <p>When the need for leave is unforeseeable, an employee must provide certification within 15 calendar days after being requested to furnish such certification or as soon as reasonably possible under the particular facts and circumstances.</p>
	<p style="text-align: center;"><b><i>Insurance Benefits During FMLA</i></b></p>	<p>The state will maintain the group health insurance coverage for employees on FMLA they had before the leave was taken and on the same terms as if the employee had continued to work. The employee is still responsible for any out-of-pocket premiums in order to keep all coverage in effect while on leave.</p>

## SECTION 4

### EMPLOYEE LEAVES

	<b><i>Job Restoration</i></b>	<p>Upon return from FMLA, an employee must be restored to their original position or to an equivalent position with equivalent pay, benefits, and other employment terms and conditions. In addition, an employee's use of FMLA cannot result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA.</p> <p>The employee must provide medical documentation certifying fitness for duty before returning to work. The ERS may deny reinstatement to the employee until the medical certification is provided.</p>
	<b><i>Failure to Return to Work after FMLA</i></b>	<p>If an employee advises the ERS in writing that they do not intend to return to work, then the employment relationship is deemed terminated, and the employee's entitlement to reinstatement, continued leave, and health benefits ends.</p> <p>The state may recover premiums it paid to maintain health insurance coverage for an employee who fails to return to work from FMLA for at least 30 days unless failure to return is due to a continuous or recurring medical condition for which the leave was taken or to circumstances beyond the employee's control.</p>

## SECTION 4

### EMPLOYEE LEAVES

<p><b>Foster Parent Leave</b></p>	<p>An employee who is a foster parent to a child under the protection of the Department of Family and Protective Services (Department) is entitled to a paid leave of absence to attend staff meetings held by the Department regarding the foster child. In addition, the employee may use this entitlement to attend admission, review, and dismissal meetings held by a school district regarding the foster child.</p>
<p><b>Jury Duty Leave</b></p>	<p>An employee called for jury service will submit advance notice to the immediate supervisor as soon as possible to allow for scheduling work assignments during the employee's absence. While involved in the jury process, the employee will keep the supervisor informed of the possible length of absence.</p> <p>On return to duty, the employee must enter a leave request into the Leave Accounting System and submit the jury release form to the Human Resources Office. An employee called to jury duty will not receive any salary deductions for that time spent on jury duty, nor will an employee be required to return to the state any fee or compensation received for jury services.</p>
<p><b>Leave without Pay</b></p>	<p>Leave Without Pay (LWOP) is a pre-approved temporary absence from work for which the employee does not receive compensation. LWOP will be granted only when its compensating benefits (impact of employee on the job) outweigh the cost of keeping the position open or filling it temporarily until the employee returns. The absence will not be granted for more than 12 consecutive months and each request will be considered on the basis of its individual merits. The Deputy Executive Director must approve all requests for LWOP in advance. Abuse of LWOP privileges (for non-medical or non-FMLA reasons) may result in disciplinary action, up to and including termination.</p>

## SECTION 4

### EMPLOYEE LEAVES

	<p style="text-align: center;"><b><i>Conditions Related to LWOP</i></b></p>	<p>An employee may be granted a leave of absence without pay subject to the following conditions:</p> <ul style="list-style-type: none"> <li>• Except for disciplinary suspensions, Workers' Compensation, and military situations, all accumulated paid leave must be exhausted before granting such leaves, with the additional provision that sick leave must be exhausted only in those cases where the employee is eligible to take sick leave as provided in the sick leave provisions.</li> <li>• The Executive Director may provide exceptions to these limitations for such reasons as interagency agreements or educational purposes.</li> <li>• Any full calendar month in which an employee is on LWOP will not be counted in the calculation of total state service credit for the purposes of vacation or longevity pay, except in the case of an employee returning to state employment from military leave without pay. No employee will accrue vacation or sick leave for such month. Any full calendar month of LWOP does not constitute a break in state employment, but will not be included in the calculation of the minimum number of continuous months of service required under merit salary and leave provisions.</li> </ul> <p>The employee must explain the reason for the request for a leave of absence in the "reason" field of the Leave Accounting System. A more detailed explanation that adequately explains the reason for the request may also be necessary.</p> <p><u>Return to Work After LWOP:</u> If an employee is on LWOP due to surgery, major bodily injury, pregnancy, or other chronic or extended illness, a doctor's release to return to work is required before returning to duty. The original release form must be submitted to the Human Resources Office before or on the date the employee reports to work.</p> <p>An employee's failure to return to work from LWOP on the approved return date will be considered abandonment of position and may result in immediate termination.</p>
--	---	---

## SECTION 4

### EMPLOYEE LEAVES

#### Military Leave

A state employee who is a member of the state military forces or a reserve branch of the armed forces is entitled to emergency leave when that employee is:

- Engaged in military training or duty ordered or authorized by the state military forces or reserve components of the U.S. Armed Forces, not to exceed 15 working days per federal fiscal year (October 1 – September 30);
- called to active duty with the National Guard by the Governor because of an emergency;
- called to federal active duty as a member of the National Guard for the purpose of providing assistance to civil authorities in a declared emergency or for training for that purpose is entitled to receive paid emergency leave for not more than 22 workdays without loss of military leave or vacation leave, and
- called to active duty during a national emergency by a reserve branch of the U.S. Armed Forces.

Employee Responsibility: The law requires an employee to provide the ERS with advance notice of military service if giving such notice is reasonable and possible. Notice may be either written or oral.

Adjusted Work Schedule for training: The ERS will adjust the work schedule of any employee who attends regularly scheduled training or duty a member of the Texas National Guard or the U.S. Armed Forces Reserve so that two of the employee's days off each month coincide with two days of military duty.

Paid Leave: An employee who is called to active duty or authorized training as a member of the state military forces or any of the reserve components of the U.S. Armed Forces is entitled to a leave of absence for not more than 15 days in each federal fiscal year without loss of time, efficiency rating, vacation time, sick leave, or salary. The 15 days are working days and need not be consecutive. After exhausting the 15 days of military leave, the employee may use accrued vacation leave to the extent available or be placed in a leave without pay status for the remainder of the active duty period. The employee is entitled to carry forward from one federal fiscal year to the next the net balance of unused accumulated leave that does not exceed 45 workdays.

Call to National Guard Active Duty by the Governor: An employee who is called to active duty as a member of the National Guard by the Governor because of a state emergency is entitled to receive emergency leave without loss of military or vacation leave. Such leave will be provided with full pay.

Call to National Duty, U.S. Armed Forces Reserve Branch: An employee called to active duty during a national emergency by a reserve branch of the U.S. Armed Forces will have a leave of absence. The employee will accrue state service credit while on leave but does not accrue vacation or sick leave. However, the employee retains their leave balance and will be credited with those balances upon return to the ERS.

Restoration of Employment: To be eligible for restoration to employment upon returning from military service, the employee must have been honorably discharged no later than the fifth anniversary of the date of induction, enlistment, or call to active military service, and be physically and mentally qualified to perform the duties of that position. The Attorney General ruled that a state employee returning to work following military service under restoration provisions is entitled to include time spent on active duty with longevity of employment (state service credit) for purposes of vacation and sick leave entitlement.

An employee who meets the conditions for restoration is eligible to return to their same position or a position of similar status and pay. The employee is considered to have been on furlough or leave of absence during this time of federal or state military service.

A person who believes they have been injured by a violation of this military leave policy may file a complaint with the Texas Workforce Commission civil rights division.

Revised 9/1/2011

## SECTION 4

### EMPLOYEE LEAVES

<p><b>Notice of Availability of Paid Leave for Military Service</b></p>	<p>An employee who qualifies for military leave shall receive at the time of hire written notice of the number of workdays of paid military leave they are entitled to take each fiscal year. The notice will include the number of workdays of paid military leave the employee is entitled to carry forward each federal fiscal year.</p> <p>An employee can request from the Human Resources Office a statement that includes:</p> <ul style="list-style-type: none"> <li>• the number of workdays for which the employee claimed paid military leave</li> <li>• the net balance of unused accumulated leave for that fiscal year they are entitled to carry forward to the next fiscal year</li> <li>• the net balance of all unused accumulated military leave</li> </ul> <p>Effective 9/1/2015</p>	
<p><b>Parental Leave</b></p>	<p>An employee with less than 12 months of state service or less than 1,250 hours of work in the 12 months immediately preceding the start of leave is entitled to a parental leave of absence, not to exceed 12 weeks (480 hours). An employee is required to use all appropriate paid vacation and sick leave while taking the parental leave. Parental leave may only be taken for the birth of a natural child or the adoption or foster care placement with the employee of a child under three years of age. The leave period begins with the date of birth or the adoption or foster care placement. Sick leave may be used in conjunction with parental leave when a child under the age of three is adopted regardless of whether the child is actually sick at the time of adoption.</p>	
<p><b>Sick Leave</b></p>	<p>An employee may take sick leave with pay when they are unable to perform their duties because of sickness, injury, or pregnancy and confinement. Sick leave may be taken if the employee needs to care for an immediate family member who is ill. Sick leave may be used in conjunction with FMLA or parental leave when a child under the age of three is adopted regardless of whether the child is actually ill at the time of adoption.</p> <p>"Immediate family" is defined as those individuals related by kinship, adoption, or marriage that live in the same household; foster children certified by the Texas Department of Family and Protective Services, and minor children of the employee who do not live in the same household.</p> <p>Sick leave may also be taken to care for members of an employee's family who do not reside in the same household if the time taken is medically necessary to provide care to a spouse, child, or parent of the employee. This provision for taking sick leave does not extend to an employee's parent-in-law if they do not live in the same household.</p>	
	<p><b><i>Accruals</i></b></p>	<p>An employee's sick leave accrues at the rate of eight hours per month or fraction of a month for a full-time employee. A part-time employee's sick leave accrues on a proportional basis. Sick leave accruals are earned on the first day of employment and on the first day of each succeeding month thereafter. An employee who is on leave the first day of the month may not use the sick leave that the employee accrues for that month until after a return to duty.</p>

## SECTION 4

### EMPLOYEE LEAVES

	<b><i>Excessive Use of Sick Leave</i></b>	Excessive use of sick leave occurs when an employee uses sick leave as it is earned and/or continually exhausts their balance. Sick leave used for FMLA purposes does not count toward a review of excessive use of sick leave. Disciplinary action could result due to excessive use of sick leave. An employee who uses excessive sick leave may be required to submit a physician's statement for each sick leave absence until the supervisor and/or director determines that sick leave is no longer being abused.
	<b><i>Donating Sick Leave to Co-Worker</i></b>	<p>An ERS employee can donate sick leave to another ERS employee who has exhausted all sick leave and awarded sick leave pool hours. All sick leave policies are applicable to the donated hours. The employee receiving the sick leave hours cannot use any remaining balance of the donated hours for service credit at the time of retirement. After donating the hours, the donor must have a remaining sick leave balance of at least 80 hours.</p> <p>The employee receiving the donation cannot provide any payment or gift for the sick leave hours to the donating employee.</p> <p>Effective 9/1/2015</p>
	<b><i>Request and Approval</i></b>	An employee absent from duty because of illness will notify the supervisor or, if temporarily incapacitated, may have some other person notify the supervisor or director as soon as possible. To be eligible for accrued sick leave for a continuous period of more than three working days, an employee must provide the supervisor with a doctor's certification, or an acceptable written statement of facts, showing the nature of the illness. If an illness results in the absence of three working days or less, the supervisor or director has the discretion to require documentation of the illness. Immediately upon return to duty, the employee must enter the leave request into the Leave Accounting System.
	<b><i>Educational Activities</i></b>	<p>An employee may use up to eight hours of sick leave each fiscal year to attend educational activities for the employee's children who are in pre-kindergarten through 12th grade. An employee must give reasonable notice of intention to use sick leave to attend such activities. Educational activities must be school-sponsored and include parent-teacher conferences, tutoring, volunteer programs, field trips, classroom programs, school committee meetings, academic competitions, and athletic, music or theater programs.</p> <p>Revised 9/1/2013</p>



## SECTION 4

### EMPLOYEE LEAVES

	<b><i>Restoring Sick Leave</i></b>	<p>An employee separated from employment will have their sick leave balance restored if re-employed by another state agency within twelve months of termination. An employee who is re-employed by the ERS may have their sick leave balance restored only if there is a break in service of at least thirty calendar days since the date of termination.</p> <p>An employee who is restored to state employment following military service under veterans' employment restoration provisions is generally considered to have been on furlough or leave of absence and, as such, is entitled to the restoration of sick leave accrued but not used prior to the military service.</p>
	<b><i>Return-to-Work</i></b>	<p>If an employee is absent due to surgery, major bodily injury, pregnancy, or other chronic or extended illness, a doctor's release to return to work is required before return to duty. The original release form must be submitted to the Human Resources Office before or on the date the employee reports to work.</p>
	<b><i>Transfers</i></b>	<p>An employee's sick leave balance will be transferred when an employee transfers to another state agency, provided the employment is uninterrupted.</p>
<b>Sick Leave Pool</b>	<p>The sick leave pool benefits employees and their immediate family members who suffer a catastrophic illness or injury for a prolonged period of time. A prolonged period of time is defined as 30 days or more. The pool is intended to alleviate the hardship caused to an employee and the employee's immediate family if a catastrophic illness or injury forces the employee to exhaust their leave and to lose compensation. Immediate family is defined as those individuals living in the same household and who are related by kinship, adoption, or marriage; or, foster children who are so certified by the Texas Department of Family and Protective Services. If the individual is not living in the same household, the person must be totally dependent upon the employee for personal care or services on a continuing basis.</p> <p>The Director of Human Resources serves as the pool administrator and is responsible for certifying the employee's eligibility to use leave from the pool, certifying the number of available hours in the pool and conferring with medical professionals, if necessary, before making a decision on a request for leave.</p> <p>If the time is denied by the pool administrator, the Deputy Executive Director may review the request. The Deputy Executive Director's decision will be final and is not subject to administrative review.</p>	

## SECTION 4

### EMPLOYEE LEAVES

	<b><i>Contributions to the Sick Leave Pool</i></b>	<p>An employee may voluntarily contribute sick leave to the pool. Employees who give time to the pool may not stipulate who is to receive their contribution. To contribute time, an employee must enter the number of hours donated on the Leave Activity panel in the Leave Accounting System. Contributions of sick leave must be in increments of eight hours with the exception of a retiring state employee who may contribute sick leave in increments of less than eight hours.</p>
	<b><i>Withdrawal From the Sick Leave Pool</i></b>	<p>An employee who uses pool leave is not required to reimburse the pool. All employees except the Executive Director are eligible to request time from the pool through a "Sick Leave Pool Withdrawal" form obtained from the Human Resources Office. In the event the employee is unable to make the request personally because of physical/medical constraints, the immediate supervisor or director may initiate the request. Requests will be considered in the order in which they are made. To be eligible, an employee must:</p> <ul style="list-style-type: none"> <li>• Submit a request form and attach a doctor's written statement; and</li> <li>• Exhaust all accrued leave. (Exception: employees who are off work due to an on-the-job injury or illness are not required to exhaust their vacation or compensatory leave.)</li> </ul> <p>If the employee meets the eligibility criteria, the pool time will be credited to the employee who may use that time for absences related to the catastrophic condition in the same manner as sick leave.</p> <p>An eligible employee may not draw time from the ERS' sick leave pool in an amount that exceeds the lesser of one-third of the total amount of time in the pool or 90 days. In addition, an employee may receive leave from the sick leave pool only once within a 12-month period for the same catastrophic illness or injury.</p> <p>Any unused balance of pool leave granted to an employee returns to the pool. To return time, Human Resources staff will enter the number of hours returned on the Leave Activity panel in the Leave Accounting System.</p>
<b>Time Off To Vote</b>	<p>Employees may be granted sufficient time off, without deduction from pay or accrued leave time, to exercise their voting privileges on a day in which an election is held throughout the State of Texas. Granting time off to vote will be determined by the supervisor on a case-by-case basis.</p>	
<b>Vacation</b>	<p>All employees are entitled to earn vacation accruals on a monthly basis. Employees are eligible to take vacation leave after they have been continuously employed (without any leave without pay) by the State of Texas for at least six months.</p>	

## SECTION 4

### EMPLOYEE LEAVES

	<p><b><i>Accruals</i></b></p> <p>The amount of vacation an employee earns each month is determined by the employee's length of state service. Part-time employees accrue vacation leave on a proportionate basis, and their maximum balance carryover at the end of the fiscal year is proportionate as well.</p> <p>Credit for one month's vacation leave accrual is given for each month or fraction of a month of state employment and is earned on the first workday of the month that the employee is physically at work. Vacation entitlement accrues from the first day of employment, and stops on the last day of duty. If the employee is on any type of paid leave that extends into a subsequent month, any vacation leave accrual for the month of paid leave will not be posted until the date of return to duty.</p>
	<p><b><i>Fiscal Year Carryover</i></b></p> <p>Unused vacation leave up to the maximum carryover allowed for the employee's length of state service may be carried forward from one fiscal year to another. Any excess accumulation at the end of a fiscal year will be credited to the employee's sick leave balance as of the first day of the next fiscal year.</p>
	<p><b><i>Payment of Vacation Leave</i></b></p> <p>To be eligible to receive a lump sum payment for unused annual leave, an employee must:</p> <ul style="list-style-type: none"> <li>• separate from employment with the ERS;</li> <li>• have been continuously employed by the state for a period of six months; and</li> <li>• not be re-employed by a state agency within a period of 30 calendar days from the date of separation.</li> </ul> <p>Lump sum payments for accrued but unused vacation time are computed as though the employee actually worked that time for the agency. An employee is not, however, entitled to receive longevity pay for the period equal to the amount of accrued vacation time.</p>
	<p><b><i>Running Vacation Leave Out</i></b></p> <p>An employee voluntarily terminating employment with the ERS may remain on the payroll after their last day worked by utilizing vacation leave through the remainder of the month that the separation occurs. An employee who is permitted to remain on the ERS payroll while exhausting accrued vacation time will continue to receive all compensation and benefits that the employee was receiving on the last day of duty, including paid holidays and/or longevity pay, but will not accrue additional vacation leave.</p> <p>Revised 2/13/2008</p>
	<p><b><i>Transferring Vacation Leave</i></b></p> <p>An employee transferring from one state agency to another will have their accrued but unused vacation leave balance transferred to the new agency. An employee who separates from the ERS and is re-employed within 30 calendar days by another state agency will have their accrued but unused vacation leave restored.</p>

## SECTION 4

### EMPLOYEE LEAVES

<p><b>Wellness Leave Incentive</b></p>	<p>ERS provides employees with education and health initiatives to improve health and wellbeing. Healthier employees are happier, more productive and take fewer sick days.</p> <p>In addition to the Wellness Breaks outlined in the General Work Conditions Policy #1, ERS offers a Wellness Leave incentive to qualified employees. Employees who complete an online Health Risk Assessment (HRA) with their health insurance provider and an annual physical exam with their primary care physician are eligible to earn 8 hours of Wellness Leave. Employees must submit the Wellness Leave Incentive Form with proof of HRA completion and physical exam to the Human Resources Office to receive the incentive award.</p> <p>The Wellness Leave hours must be used in the fiscal year they are earned.</p> <p>Effective 10/1/2015</p>
<p><b>Payment of Accrued Leave to the Estate of a Deceased</b></p>	<p>The estate of an employee who dies while employed by the state is entitled to payment for all of the employee's accumulated vacation leave and to one-half of the employee's accumulated sick leave, or 336 hours of sick leave, whichever is less.</p> <p>A deceased state employee's estate is entitled to receive payment for earned but unused (banked) FLSA overtime. The Attorney General ruled in 1976 that the estate of a deceased employee is not entitled to receive payment for earned but unused state compensatory time.</p>
<p><b>Sick and Vacation Leave for Retired State Employees</b></p>	<p>A retired state employee who returns to state employment is eligible for vacation and sick leave accruals at the same rate as a regular new hire, e.g., eight hours of vacation and sick leave.</p>